



Sanford M. Saunders, Jr.
Tel. 202.331.3130
Fax 202.331.3101
saunderss@gtlaw.com

June 2, 2011

VIA CM/ECF

The Honorable Peter J. Messitte
United States District Court for the District of Maryland
Greenbelt Division
6500 Cherrywood Lane
Greenbelt, Maryland 20770

Re: *Beyond Systems, Inc. v. World Avenue USA, LLC, et al.*
Case No. PJM 08 cv 0921
U.S. District Court for Maryland (Southern Division)

Dear Judge Messitte:

We write regarding Plaintiff Beyond Systems, Inc.'s ("BSI") Motion for Summary Judgment on Three Trial Issues filed today at DE 697. We are stunned that BSI has once again violated Your Honor's November 29, 2010 ruling and related Order at DE 544, inserted a prohibited motion into this case and utterly ignored what Your Honor said in plain English.

BSI's Motion for Summary Judgment does exactly what this Court said it would not allow. It disregards the plain meaning and reasoning behind the Court's ruling at the November 29th hearing and in the November 30th Order. As expressed by the Court at the hearing:

7. ... I assure you, **I'm not**
8 **going to entertain other Motions for Summary Judgment** either.
9 **We're going to try this case.** I'm going to push everybody to
10 try it and we'll see where we come out. We'll see whether BSI
11 and whether Hypertouch really survive as bona fide entities
12 here. And if they do, we'll see whether in fact the World
13 Avenue entities survive as well.
14 But the time has come to put an end to all these
15 pre-trial motions. We're going to set this matter in for trial.
16 You can file whatever you want, but do not expect to have
17 hearings on further motions with respect to these responsive
18 parties. We'll make ruling on the papers, but there'll be no
19 further hearings in the matter until we get to the matter for
20 trial.

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- 21 All these issues are going to be tried at one point.
- 22 You either settle this case or you're going to go to trial, and
- 23 we're going to get one final read on where BSI is and indeed
- 24 where the World Avenue people are.

See Transcript of November 29, 2010 hearing, p. 85, lines 7-24, attached as Exhibit A.

The Court could not have been clearer that the parties should not file any further Motions for Summary Judgment. BSI's latest filing leaves no doubt that it prefers to disobey this Court, waste the Court and the Defendants' time, and disrupt the August trial. This type of conduct can only be deterred by unequivocal measures. The previous sanctions awards against BSI now totaling \$34,480 for multiple discovery improprieties have not been sufficient to deter this latest example of BSI ignoring what this Court clearly held.

We also note that BSI has chosen to file a letter at DE 698 proposing a stay of *all* motions due to the pendency of settlement negotiations. Defendants have filed fully-briefed discovery motions (with Local Rule 104 Certifications) that are necessary for the August trial. Thus, BSI is attempting to lead the Court down a path which further disrupts preparation for the scheduled August trial date. BSI is doing so without being candid with the Court about the probable effect of the relief it has requested. It is no coincidence that BSI has not told the Court what the Motions it would like to see stayed actually are.

Accordingly, we request the Court strike the Motion for Summary Judgment and deny the letter request for a ten (10) day stay. With all possible speed, World Avenue is also preparing a Motion for an Order to Show Cause Why BSI and its Counsel Should Not Be Held in Contempt and will request the Court consider further appropriate sanctions.

Respectfully Submitted,

/s Sanford M. Saunders, Jr.

Sanford M. Saunders, Jr.

Enclosure

cc: The Honorable Magistrate Judge Charles B. Day
Kenneth A. Horky, Esq.
John L. McManus, Esq.
Nicoleta Timofti, Esq.